

BILL NO. 94-36

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 94-36

Introduced by Council President Wilson at the request of the County Executive

Legislative Day No. 94-13 Date May 3, 1994

AN ACT to repeal and reenact, with amendments, Section 267-104, Adequate Public Facilities, of Article XXI, Public Facilities, of Part 6, Growth Management, of Chapter 267, Zoning, of the Harford County Code, as amended; to require off-site road improvements in connection with the development of land, under certain conditions; to require traffic impact analysis studies in connection with the development of land, under certain conditions; to require the payment of certain fees in lieu of the required road improvements, under certain conditions, and generally relating to the adequacy of roads in the County.

By the Council, May 3, 1994

Introduced, read first time, ordered posted and public hearing scheduled

on: June 7, 1994

at: 6:00 p.m.

By Order: James D. Vannoy, Acting Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on June 7, 1994, and concluded on, June 7, 1994

James D. Vannoy, Acting Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

BILL NO. 94-36

1 Section 1. Be It Enacted By The County Council of Harford County, Maryland, that Section
2 267-104, Adequate Public Facilities, of Article XXI, Public Facilities, of Part 6, Growth
3 Management, of Chapter 267, Zoning, of the Harford County Code, as amended, be and is hereby
4 repealed and reenacted, with amendments, all to read as follows:

5 Chapter 267. Zoning.

6 Part 6. Growth Management.

7 Article XXI. Public Facilities.

8 § 267-104. Adequate public facilities.

9 A. Annual growth report

10 (1) The Department of Planning and Zoning shall prepare an annual growth report
11 describing growth and facility capacity in accordance with Paragraphs (2) and (3) of
12 this subsection. The annual growth report shall be submitted by the Director of
13 Planning to the County Council by June 1 and shall become effective July 1.

14 (2) Growth trends -- The annual growth report shall describe the growth that has occurred
15 in the preceding year. The information in the report shall be aggregated by the
16 appropriate facility service areas, and the report shall include, but need not be limited
17 to, the following information:

18 (a) Number of building permits approved for new dwelling units, by type;

19 (b) The number of building permits approved for nonresidential uses, by type and
20 total floor area;

21 (c) Estimated population, households, and employment;

22 (d) Comparisons with the same information for the previous five years;

23 (e) Comparison with the same information for the Baltimore region and other
24 political subdivisions; and

25 (f) Population, household, and employment projections for 5- and 10- year periods.

26 (3) Specific facility analysis -- The annual report shall include an analysis of the current
27 and future utilization and capacity of specific public facilities and services. The

analysis shall include, but need not be limited to, the following information:

(a) Schools

1. Full-time enrollment for each school district; as of September 30, or as of any other official reporting date as set by the State Board of Education.
2. Rated capacity and utilization percentage of each school facility, with capacity based on a standard of 25 students per classroom for regular classes and 10 students per classroom for special education classes, exclusive of relocatable or portable classrooms.
3. One-year, 2-year, and 3-year enrollment projections for each facility, including a description of the method of projecting enrollment in each facility;
4. Pupil yield factor by school level for each type of dwelling unit;
5. List of approved capital projects for new or expanded school facilities and the identified schools that will be relieved, including projects enrollment and opening date; and
6. School districts map for each level of school facilities.

(b) Sewerage

1. Sewage generation (in gallons per day) for each type of dwelling unit and commercial/industrial use (average);
2. Inventory/tabulation of existing flows, including all allocations to the system, and the total system capacity;
3. Sewage generation projections for the system, including the basis for their computation; and
4. A list of capital projects, contained in the capital improvements program, for expanded sewerage facilities, including project status.

(c) Water

1. Water usage (in gallons per day) for each type of dwelling unit and

commercial and industrial use (average);

2. Inventory/tabulation of existing water consumption, including all allocations to the system, and the total system capacity;
3. Water usage/demand projections for the system, including the basis for their computation; and
4. A list of capital projects, contained in the capital improvements program, for expanded water facilities, including project status.

(D) ROADS

1. LIST OF APPROVED TRANSPORTATION CAPITAL PROJECTS OUTLINED IN THE HARFORD COUNTY CAPITAL IMPROVEMENT PROGRAM AND THE STATE CONSOLIDATED TRANSPORTATION PROGRAM;
2. LIST OF THE EXISTING LEVEL OF SERVICE (LOS) AT MAJOR INTERSECTIONS IN THE COUNTY AS CONTAINED IN THE ANNUAL GROWTH REPORT; AND
3. LIST OF THE EXISTING AVERAGE DAILY TRAFFIC (ADT) ON MAJOR ROADWAYS IN THE COUNTY AS CONTAINED IN ANNUAL GROWTH REPORT.

- (4) Amendments -- The Director of Planning may amend the annual growth report to correct factual errors or to include significant changes in facility capacity. Such amendments shall be presented to the County Council within 210 calendar days of the effective date of the report.

B. Adequacy standards (minimum acceptable level of service)

- (1) Residential development -- Approval of residential subdivision plans and site plans for multi-family development shall be subject to findings of adequate capacity based on the standards set in this subsection, and the current and projected use level described in the annual growth report:

1 (a) Schools

2 1. Preliminary approval -- Preliminary subdivision plans exceeding five (5)
3 lots and site plans for multi-family residential developments exceeding five
4 dwelling units shall not be approved at locations where either of the
5 following conditions exists:

6 a. The enrollment at the elementary school which serves the site is
7 greater than 120% of the rated capacity, or is projected to be greater
8 than 120% within two years; or

9 b. The enrollment of either the middle school or high school which
10 serves the site is greater than 120% of the rated capacity or is
11 projected to be greater than 120% within three years.

12 2. Conditional review -- If paragraphs (1)(a)1.a. or b. of this subsection
13 prevent approval of a preliminary subdivision plan or a site plan, the
14 Department of Planning and Zoning may proceed with conditional review
15 of the plan and place it on a waiting list arranged by date of completion of
16 the review. Record plats, grading permits, and public works agreements
17 for utilities or roads shall not be executed by the county until the plan for
18 the project is removed from the waiting list and preliminary approval is
19 granted. Removal from the waiting list shall occur only when the condition
20 that prevented approval under Paragraphs (1)(a)1.a. or b. of this subsection
21 no longer exists.

22 3. Exemptions -- The provisions of this subsection shall not apply to transient
23 housing or housing for the elderly.

24 4. Grandfathering -- the provisions of this section concerning the adequacy of
25 schools shall not apply to those developments which, as of the effective date
26 of Bill No. 91-70 (4/6/92), have an approved preliminary plan.

27 (b) Sewerage

1 1. The county sewerage system shall be considered adequate if, taking into
2 consideration demands on the system generated or projected to be generated
3 by existing connections, buildings under construction that will be connected
4 to the system, all committed allocations evidenced by payment of area
5 charges and connection fees, all unexpired public works utility agreements,
6 all preliminary plans approved after the effective date of this subsection,
7 and properties using individual sewerage systems that are anticipated to
8 connect to the system on completion of a capital project then under
9 construction or for which funding has been authorized, right-of-way
10 acquisition completed and construction plans completed:

11 a. Collector system to serve the proposed development are designed to
12 accommodate expected ultimate peak gravity flows from the
13 development and other developable land within the drainage area;

14 b. Interceptors to serve the proposed development have sufficient
15 available capacity to accommodate expected peak gravity flows from
16 the subdivision;

17 c. Pumping stations and force mains, receiving flows from the collector
18 system in the drainage/service area, have sufficient available capacity
19 to accommodate ultimate peak flows from the proposed development
20 and other developable land within the drainage area;

21 d. Pumping stations and force mains, receiving flows from interceptors
22 to serve the proposed development, have sufficient available capacity
23 to accommodate expected peak flow from the proposed development;
24 and

25 e. Treatment plant(s) have sufficient available capacity to accommodate
26 expected annual average and maximum daily loadings from the
27 proposed development.

- 1 2. The county sewerage system shall also be considered adequate if there is
2 compliance with 1.a. and 1.c. of this subsection and the county has funded
3 projects for the improvement of the facilities necessary to comply with
4 requirements of 1.b., d., and e. of this subsection.
- 5 3. The county sewerage system shall also be considered adequate if there is
6 compliance with 1.e.2. of this subsection and the developer agrees to
7 construct the improvements to the system to meet the requirements of 1.a.,
8 b., c. & d. of this subsection, or the developer executes an agreement with
9 the county for improvements to the system to meet the requirements of 1.a,
10 b., c. and d. of this subsection.
- 11 4. If the county sewerage system is found to be inadequate, then preliminary
12 subdivision plans exceeding five lots, site plans for multi-family residential
13 developments exceeding five dwelling units, and extensions of previously
14 approved preliminary subdivision plans shall not be approved.
- 15 5. Conditional review -- if paragraphs 1.a., b., c., d. or e. of this subsection
16 prevents approval or the extension of a previous approval of a preliminary
17 subdivision plan or site plan, the department of planning and zoning may
18 proceed with conditional review of the plan and place it on a waiting list
19 arranged by date of completion of the review and, for previously approved
20 plans, by date of the request for extension. Record plats, grading permits
21 and public works agreements for utilities or roads shall not be executed by
22 the county until the plan for the project is removed from the waiting list and
23 preliminary approval or extension of the previous approval is granted.
24 Removal from the waiting list shall occur only when the condition that
25 prevented approval under paragraphs 1.a., b., c., d. or e. of this subsection
26 no longer exists.
- 27 6. Grandfathering -- unless an extension of the approval of the plan is granted

1 in accordance with the subdivision regulations, development conducted in
2 accordance with a preliminary plan approved before the effective date of
3 Council Bill 93-26 is exempt from the provisions of this subsection
4 concerning the adequacy of the sewerage system. If an extension of the
5 approval of the plan is granted, the development is subject to the provisions
6 of this subsection concerning the adequacy of the sewerage system. If
7 development is exempt from the provisions of this subsection concerning the
8 adequacy of the sewerage system, execution of public works utility
9 agreements for such development is subject to availability of capacity in the
10 sewerage system at the time of application for the public works utility
11 agreements.

12 (c) Water

13 1. The county water system or community water system shall be considered
14 adequate if, taking into consideration demands on the system generated or
15 projected to be generated by existing connections, building under
16 construction that will be connected to the system, all committed allocations
17 evidenced by payment of area charges and connection fees, all unexpired
18 public works utility agreements, all preliminary plans approved after the
19 effective date of this subsection, and properties using individual water
20 supply system that are anticipated to connect to the system on completion
21 of a capital project then under construction or for which funding has been
22 authorized, right-of-way acquisition completed and construction plans
23 completed:

24 a. The distribution system is capable of providing the required pressures
25 and flows during the maximum day demand to the proposed
26 development and the minimum required pressures for fire flows, as
27 established in the county's water and sewer design guidelines and

1 plumbing code;

2 b. Booster stations and/or transmission mains in the service area have
3 sufficient available capacity to provide maximum day demand and
4 minimum required pressure for fire flow to the proposed development;

5 c. Storage tanks in the service area have sufficient available capacity to
6 provide peak hour demand in addition to fire flow to the proposed
7 development;

8 d. Source and treatment facilities in the service area have sufficient
9 available capacity to provide maximum day demand to the proposed
10 development.

11 2. The county water system or community water system shall also be
12 considered adequate if the county or the operating entity has funded projects
13 for the improvement of the facilities necessary to comply with the
14 requirements of paragraphs 1.a., b., c. and d. of this subsection.

15 3. The county water system or community water system shall also be
16 considered adequate if there is compliance with 1.c. and d. of this
17 subsection and the developer agrees to construct the improvements to the
18 system to meet the requirements of 1.a., b., c. & d. of this subsection, or
19 the developer executes an agreement with the county or the operating entity
20 for improvements to the system to meet the requirements of 1.a. and b. of
21 this subsection.

22 4. If the water system serving the proposed development is found to be
23 inadequate, then preliminary subdivision plans exceeding five (5) lots, site
24 plans for multi-family residential developments exceeding five dwelling
25 units, and extensions of previously approved preliminary subdivision plans
26 shall not be approved.

27 5. Conditional review -- if paragraph 1.a., b., c. or d. of this subsection

1 prevents approval or the extension of a previous approval of a preliminary
2 plan or site plan, the department of planning and zoning may proceed with
3 conditional review of the plan and place it on a waiting list arranged by date
4 of completion of the review and, for previously approved plans, by date of
5 the request for extension. Record plats, grading permits and public works
6 agreements for utilities or roads shall not be executed by the county until
7 the plan for the project is removed from the waiting list and preliminary
8 approval or extension of the previous approval is granted. Removal from
9 the waiting list shall occur only when the condition that prevented approval
10 under paragraphs 1.a., b., c. or d. of this subsection no longer exists.

- 11 6. Grandfathering -- unless an extension of the approval of the plan is granted
12 in accordance with the subdivision regulations, development conducted in
13 accordance with a preliminary plan approved before the effective date of
14 Council Bill 93-26 is exempt from the provisions of this subsection
15 concerning the adequacy of the water system. If an extension of the
16 approval of the plan is granted, the development is subject to the provisions
17 of this subsection concerning the adequacy of the water system. If
18 development is exempt from the provisions of this subsection concerning the
19 adequacy of the water system, execution of public works utility agreements
20 for such development is subject to availability of capacity in the water
21 system at the time of application for the public works utility agreements.

22 (D) ROADS

- 23 1. DEVELOPMENTS WHICH GENERATE MORE THAN 249 TRIPS PER
24 DAY, BASED ON THE INSTITUTE OF TRANSPORTATION
25 ENGINEERS TRIP GENERATION MANUAL (CURRENT EDITION),
26 SHALL HAVE PREPARED, BY THE SUBDIVIDER, A TRAFFIC
27 IMPACT ANALYSIS (TIA) STUDY TO DETERMINE THE LEVEL OF

1 SERVICE (LOS) OF ROAD INTERSECTIONS WITHIN THE STUDY
2 AREA. THE TRAFFIC STUDY SHALL CONFORM TO THE
3 REQUIREMENTS OUTLINED IN THE HARFORD COUNTY TIA
4 GUIDELINE INCLUDING:

5 (A) EXPANSION OF THE STUDY AREA FOR DEVELOPMENTS
6 WHICH GENERATE 1,500 OR MORE TRIPS PER DAY; OR

7 (B) LIMITING THE STUDY AREA TO 2 MILES IN ALL
8 DIRECTIONS OR TO THE AREA AS IDENTIFIED IN
9 PARAGRAPH 3, WHICHEVER IS LESS.

10 2. AT THE REQUEST OF AND WITH JUSTIFICATION SUBMITTED BY
11 THE SUBDIVIDER, THE DIRECTOR OF PLANNING AND ZONING,
12 WITH THE CONCURRENCE OF THE DEPARTMENT OF PUBLIC
13 WORKS, MAY ELIMINATE FROM THE IMPACT STUDY THOSE
14 INTERSECTIONS WHERE THE COUNTY STAFF FIND THAT THERE
15 WILL BE:

16 (A) MINIMAL IMPACT ON TRAFFIC; OR

17 (B) EXCESSIVE DISTANCE BETWEEN THE FIRST ARTERIAL
18 ROAD AND NEXT INTERSECTING COLLECTOR ROAD.

19 3. EXISTING STATE AND COUNTY ROADS SHALL BE CONSIDERED
20 ADEQUATE TO ACCOMMODATE THE TRAFFIC PROJECTED TO
21 BE GENERATED BY THE PROPOSED DEVELOPMENT IF:

22 (A) INSIDE THE DEVELOPMENT ENVELOPE (THE BOUNDARY
23 DESIGNATED AS THE PLANNED GROWTH AREA OF
24 HARFORD COUNTY AS PROVIDED IN THE 1988 MASTER
25 LAND USE PLAN)—THE EXISTING COUNTY AND STATE
26 ROADS IN ALL DIRECTIONS FROM EACH POINT OF
27 ENTRANCE OF THE SITE THROUGH THE INTERSECTION

1 WITH THE FIRST ARTERIAL ROADWAY TO THE NEXT
2 INTERSECTING COLLECTOR OR HIGHER FUNCTIONAL
3 CLASSIFICATION ROAD AS DEFINED BY THE HARFORD
4 COUNTY TRANSPORTATION PLAN:

5 (i) ARE CAPABLE OF ACCOMMODATING A PROJECTED
6 LEVEL OF SERVICE "D" OR HIGHER AT THE
7 INTERSECTIONS AS DEFINED BY THE HIGHWAY
8 CAPACITY MANUAL, SPECIAL REPORT 209, PUBLISHED
9 BY THE TRANSPORTATION RESEARCH BOARD.

10 (B) OUTSIDE THE DEVELOPMENT ENVELOPE (THE BOUNDARY
11 DESIGNATED AS THE PLANNED GROWTH AREA OF
12 HARFORD COUNTY AS PROVIDED IN THE 1988 MASTER
13 LAND USE PLAN)—THE EXISTING COUNTY AND STATE
14 ROADS IN ALL DIRECTIONS FROM EACH POINT OF
15 ENTRANCE OF THE SITE TO THE FIRST INTERSECTION OF
16 A MAJOR COLLECTOR OR HIGHER FUNCTIONAL
17 CLASSIFICATION ROAD AS DEFINED BY THE HARFORD
18 COUNTY TRANSPORTATION PLAN;

19 (i) ARE CAPABLE OF ACCOMMODATING A PROJECTED
20 LEVEL OF SERVICE "C" OR HIGHER AT THE
21 INTERSECTIONS AS DEFINED BY THE HIGHWAY
22 CAPACITY MANUAL, SPECIAL REPORT 209, PUBLISHED
23 BY THE TRANSPORTATION RESEARCH BOARD.

24 4. CAPITAL PROJECTS WITH 100% OF THE CONSTRUCTION COSTS
25 ALLOCATED IN THE COUNTY'S CURRENT YEAR ADOPTED
26 CAPITAL IMPROVEMENT PROGRAM OR APPROVED FOR
27 CONSTRUCTION IN THE CURRENT YEAR STATE CONSOLIDATED

1 TRANSPORTATION PROGRAM MAY BE UTILIZED IN THE
2 TRAFFIC ANALYSIS. NECESSARY IMPROVEMENTS IDENTIFIED
3 IN THE TIA TO MEET THE LOS STANDARDS IN (D)3. MUST BE
4 PROVIDED BY THE SUBDIVIDER:

5 (A) IF THE TIA DETERMINES THAT THE EXISTING LOS IS "E" OR
6 LOWER AT AN INTERSECTION INSIDE THE DEVELOPMENT
7 ENVELOPE, THE SUBDIVIDER NEEDS ONLY TO MITIGATE
8 THE PORTION OF TRIPS GENERATED FROM THE
9 SUBDIVISION SITE; OR

10 (B) IF THE TIA DETERMINES THAT THE EXISTING LOS IS "D"
11 OR LOWER AT AN INTERSECTION OUTSIDE THE
12 DEVELOPMENT ENVELOPE, THE SUBDIVIDER NEEDS ONLY
13 TO MITIGATE THE PORTION OF TRIPS GENERATED FROM
14 THE SUBDIVISION SITE; AND

15 (C) IF THE TIA DETERMINES A SUBDIVIDER IS SUBJECT TO
16 MITIGATE ITS PORTION OF TRIPS GENERATED FROM THE
17 SITE, THEN THE SUBDIVIDER SHALL CONSTRUCT THE
18 IMPROVEMENTS AS STIPULATED BY THE DEPARTMENT OF
19 PUBLIC WORKS. IN THE EVENT THAT THE DEPARTMENT
20 OF PUBLIC WORKS DETERMINES THAT THE SUBDIVIDER IS
21 UNABLE TO PROVIDE THE IMPROVEMENTS BECAUSE OF
22 THE INABILITY TO ACQUIRE THE NECESSARY RIGHTS-OF-
23 WAY, THE PHYSICAL CONSTRAINTS OF THE PROPERTY, OR
24 STATE OR FEDERAL REGULATIONS, ALL OF WHICH ARE
25 BEYOND THE CONTROL OF THE SUBDIVIDER, THEN THE
26 SUBDIVIDER SHALL DEPOSIT INTO AN ESCROW ACCOUNT
27 WITH THE COUNTY 125% OF THE FUNDS NECESSARY TO

1 COVER THE COSTS OF THE IMPROVEMENTS AS
2 DETERMINED BY THE COUNTY. SAID FUNDS SHALL BE
3 DEPOSITED PRIOR TO ISSUANCE OF A BUILDING PERMIT.
4 THE COUNTY SHALL CONTINUE TO HOLD THE MONEY IN
5 ESCROW UNTIL SUCH TIME AS THE IMPROVEMENTS ARE
6 ABLE TO BE CONSTRUCTED. IN NO EVENT, HOWEVER,
7 SHALL THE MONEY BE RETAINED BY THE COUNTY FOR
8 LONGER THAN 10 YEARS FROM DATE OF DEPOSIT.

9 5. CONDITIONAL REVIEW — IF PARAGRAPHS 3.(A)(i), OR (B) (i), OF
10 THIS SUBSECTION PREVENTS APPROVAL OR THE EXTENSION OF
11 A PREVIOUS APPROVAL OF A PRELIMINARY SUBDIVISION PLAN
12 OR SITE PLAN, THE DEPARTMENT OF PLANNING AND ZONING
13 MAY PROCEED WITH CONDITIONAL REVIEW OF THE PLAN AND
14 PLACE IT ON A WAITING LIST ARRANGED BY DATE OF
15 COMPLETION OF THE REVIEW AND, FOR PREVIOUSLY-
16 APPROVED PLANS, BY DATE OF THE REQUEST FOR EXTENSION.
17 RECORD PLATS, GRADING PERMITS AND PUBLIC WORKS
18 AGREEMENTS FOR UTILITIES OR ROADS SHALL NOT BE
19 EXECUTED BY THE COUNTY UNTIL THE PLAN FOR THE
20 PROJECT IS REMOVED FROM THE WAITING LIST AND
21 PRELIMINARY APPROVAL OR EXTENSION IS GRANTED.
22 REMOVAL FROM THE WAITING LIST SHALL OCCUR ONLY WHEN
23 THE CONDITION THAT PREVENTED APPROVAL UNDER
24 PARAGRAPHS 3.(A)(i), OR (B)(i), OF THIS SUBSECTION NO
25 LONGER EXISTS.

26 6. GRANDFATHERING — UNLESS AN EXTENSION OF THE
27 APPROVAL OF THE PLAN IS GRANTED IN ACCORDANCE WITH

1 THE SUBDIVISION REGULATIONS, DEVELOPMENT CONDUCTED
2 IN ACCORDANCE WITH A PRELIMINARY PLAN APPROVED
3 BEFORE THE EFFECTIVE DATE OF COUNCIL BILL 94 - _____ IS
4 EXEMPT FROM THE PROVISIONS OF THIS SUBSECTION
5 CONCERNING THE ADEQUACY OF THE ROADWAYS. IF AN
6 EXTENSION OF THE APPROVAL OF THE PLAN IS GRANTED, THE
7 DEVELOPMENT IS SUBJECT TO THE PROVISIONS OF THIS
8 SUBSECTION CONCERNING THE ADEQUACY OF THE ROADWAY
9 SYSTEM.

- 10 (2) Non-residential development — Approval of non-residential development and site
11 plans shall be subject to findings of adequate capacity based on the standards set in
12 this subsection, and the current and projected use levels described in the annual
13 growth report:

14 (a) Sewerage

- 15 1. The county sewerage system shall be considered adequate if, taking into
16 consideration demands on the system generated or projected to be generated
17 by existing connections, buildings under construction that will be connected
18 to the system, all committed allocations evidenced by payment of area
19 charges and connection fees, all unexpired public works utility agreements,
20 all preliminary plans approved after the effective date of this subsection,
21 and properties using individual sewerage system that are anticipated to
22 connect to the system on completion of a capital project then under
23 construction or for which funding has been authorized, right-of-way
24 acquisition completed and construction plans completed:

- 25 a. Collectors system to serve the proposed development is designed to
26 accommodate expected ultimate peak gravity flows from the
27 development and other developable land within the drainage area;

- b. Interceptors to serve the proposed development have sufficient available capacity to accommodate expected peak gravity flows from the development;
 - c. Pumping stations and force mains, receiving flows from the collector system in the drainage/service area have sufficient available capacity to accommodate ultimate peak flows from the proposed development and other developable land within the drainage area;
 - d. Pumping stations and force mains, receiving flows from interceptors to serve the proposed development, have sufficient available capacity to accommodate expected peak flow from the proposed development; and
 - e. Treatment plant(s) have sufficient available capacity to accommodate expected annual average and maximum daily loadings from the proposed development.
 2. The county sewerage system shall also be considered adequate if there is compliance with 1.a. and c. of this subsection and the county has funded projects for the improvement of the facilities necessary to comply with requirements of 1.b., d., and e. of this subsection.
 3. The county sewerage system shall also be considered adequate if there is compliance with 1.e. of this subsection and the developer agrees to construct the improvements to the system to meet the requirements of 1.a., b., c. & d. of this section, or the developer executes an agreement with the county for improvements to the system to meet the requirements of 1.A., B., C. And d. Of this subsection.
 4. If the county sewerage system is found to be inadequate, then preliminary subdivision plans, site plans, and extensions of previously approved preliminary subdivision plans shall not be approved.

- 1 5. Conditional review — If paragraphs 1.a., b., c., d. or e. of this subsection
2 prevents approval or the extension of a previous approval of a preliminary
3 subdivision plan or site plan, the Department of Planning and Zoning may
4 proceed with conditional review of the plan and place it on a waiting list
5 arranged by date of completion of the review and, for previously approved
6 plans, by date of the request for the extension. Record plats, grading
7 permits and public works agreements for utilities or roads shall not be
8 executed by the county until the plan for the project is removed from the
9 waiting list and preliminary approval or extension of the previous approval
10 is granted. Removal from the waiting list shall occur only when the
11 condition that prevented approval under paragraphs 1.a., b., c., d. or e. of
12 this subsection no longer exists.
- 13 6. Grandfathering — The provisions of this subsection concerning the
14 adequacy of the sewerage system shall not apply to those developments,
15 which, as of the effective date of this act have an approved preliminary plan
16 or site plan; except that unless an extension of the approval of the plan is
17 granted in accordance with the subdivision regulations, development
18 conducted in accordance with a preliminary plan or site plan approved
19 before the effective date of Council Bill 93-26 is exempt from the
20 provisions of this subsection concerning the adequacy of the sewerage
21 system. If an extension of the approval of the plan is granted, the
22 development is subject to the provisions of this subsection concerning the
23 adequacy of the sewerage system. If development is exempt from the
24 provisions of this subsection concerning the adequacy of the sewerage
25 system, execution of public works utility agreements for such development
26 is subject to availability of capacity in the sewerage system at the time of
27 application for the public works utility agreements.

1 (B) Water

2 1. The county water system or community water system shall be considered
3 adequate if, taking into consideration demands on the system generated or
4 projected to be generated by existing connections, building under
5 construction that will be connected to the system, all committed allocations
6 evidenced by payment of area charges and connection fees, all unexpired
7 public works utility agreements, all preliminary plans approved after the
8 effective date of this subsection, and properties using individual water
9 supply system that are anticipated to connect to the system on completion
10 of a capital project then under construction or for which funding has been
11 authorized, right-of-way acquisition completed and construction plans
12 completed:

- 13 a. The distribution system is capable of providing the required pressures
14 and flows during the maximum day demand to the proposed
15 development and the minimum required pressures for fire flows, as
16 established in the county's water and sewer design guidelines and
17 plumbing code;
- 18 b. Booster stations and/or transmission mains in the service area have
19 sufficient available capacity to provide maximum day demand and
20 minimum required pressure for fire flow to the proposed development;
- 21 c. Storage tanks in the service area have sufficient available capacity to
22 provide peak hour demand in addition to fire flow to the proposed
23 development;
- 24 d. Source and treatment facilities in the service area have sufficient
25 available capacity to provide maximum day demand to the proposed
26 development.

27 2. The county water system or community water system shall also be

1 considered adequate if the county or the operating entity has funded projects
2 for the improvement of the facilities necessary to comply with the
3 requirements of paragraphs 1.a., b., c. and d. of this subsection.

- 4 3. The county water system or community water system shall also be
5 considered adequate if there is compliance with 1.c. and d. of this
6 subsection and the developer agrees to construct the improvements to the
7 system to meet the requirements of 1.a., b., c. & d. of this section, or the
8 developer executes an agreement with the county or the operating entity for
9 improvements to the system to meet the requirements of 1.a. and b. of this
10 subsection.
- 11 4. If the water system serving the proposed development is found to be
12 inadequate, then preliminary subdivision plans, site plans, and extensions
13 of previously approved preliminary subdivision plans shall not be approved.
- 14 5. Conditional review — If paragraphs 1.a., b., c. or d. of this subsection
15 prevents approval or the extension of a previous approval of a preliminary
16 plan or site plan, the Department of Planning and Zoning may proceed with
17 conditional review of the plan and place it on a waiting list arranged by date
18 of completion of the review and, for previously approved plans, by date of
19 the request for extension. Record plats, grading permits and public works
20 agreements for utilities or roads shall not be executed by the county until
21 the plan for the project is removed from the waiting list and preliminary
22 approval or extension of the previous approval is granted. Removal from
23 the waiting list shall occur only when the condition that prevented approval
24 under paragraphs 1.a., b., c. or d. of this subsection no longer exists.
- 25 6. Grandfathering — unless an extension of the approval of the plan is granted
26 in accordance with the subdivision regulations, development conducted in
27 accordance with a preliminary plan or site plan approved before the

1 effective date of Council Bill 93-26 is exempt from the provisions of this
2 subsection concerning the adequacy of the water system. If an extension
3 of the approval of the plan is granted, the development is subject to the
4 provisions of this subsection concerning the adequacy of the water system.
5 If development is exempt from the provisions of this subsection concerning
6 the adequacy of the water system, execution of public works utility
7 agreements for such development is subject to availability of capacity in the
8 water systems at the time of application for the public works utility
9 agreements.

10 (C) ROADS

- 11 1. DEVELOPMENTS WHICH GENERATE MORE THAN 249 TRIPS PER
12 DAY, BASED ON THE INSTITUTE OF TRANSPORTATION
13 ENGINEERS TRIP GENERATION MANUAL (CURRENT EDITION),
14 SHALL HAVE PREPARED, BY THE SUBDIVIDER, A TRAFFIC
15 IMPACT ANALYSIS (TIA) STUDY TO DETERMINE THE LEVEL OF
16 SERVICE (LOS) OF ROAD INTERSECTIONS WITHIN THE STUDY
17 AREA. THE TRAFFIC STUDY SHALL CONFORM TO THE
18 REQUIREMENTS OUTLINED IN THE HARFORD COUNTY TIA
19 GUIDELINE INCLUDING:

20 (A) EXPANSION OF THE STUDY AREA FOR DEVELOPMENTS
21 WHICH GENERATE 1,500 OR MORE TRIPS PER DAY; OR

22 (B) LIMITING THE STUDY AREA TO 2 MILES IN ALL
23 DIRECTIONS OR TO THE AREA AS IDENTIFIED IN
24 PARAGRAPH 3, WHICHEVER IS LESS.

- 25 2. AT THE REQUEST OF AND WITH JUSTIFICATION SUBMITTED BY
26 THE SUBDIVIDER, THE DIRECTOR OF PLANNING AND ZONING,
27 WITH THE CONCURRENCE OF THE DEPARTMENT OF PUBLIC

1 WORKS, MAY ELIMINATE FROM THE IMPACT STUDY THOSE
2 INTERSECTIONS AND ROADWAYS WHERE THE COUNTY STAFF
3 FIND THAT THERE WILL BE:

4 (A) MINIMAL IMPACT ON TRAFFIC; OR

5 (B) EXCESSIVE DISTANCE BETWEEN THE FIRST ARTERIAL AND
6 NEXT INTERSECTING COLLECTOR.

7 3. EXISTING STATE AND COUNTY ROADS SHALL BE CONSIDERED
8 ADEQUATE TO ACCOMMODATE THE TRAFFIC PROJECTED TO
9 BE GENERATED BY THE PROPOSED DEVELOPMENT IF:

10 (A) INSIDE THE DEVELOPMENT ENVELOPE—THE EXISTING
11 COUNTY AND STATE ROADS IN ALL DIRECTIONS FROM
12 EACH POINT OF ENTRANCE OF THE SITE THROUGH THE
13 INTERSECTION WITH THE FIRST ARTERIAL ROADWAY TO
14 THE NEXT INTERSECTING COLLECTOR OR HIGHER
15 FUNCTIONAL CLASSIFICATION ROAD AS DEFINED BY THE
16 HARFORD COUNTY TRANSPORTATION PLAN:

17 (i) ARE CAPABLE OF ACCOMMODATING A PROJECTED
18 LEVEL OF SERVICE "D" OR HIGHER AT THE
19 INTERSECTIONS AS DEFINED BY THE HIGHWAY
20 CAPACITY MANUAL, SPECIAL REPORT 209, PUBLISHED
21 BY THE TRANSPORTATION RESEARCH BOARD.

22 (B) OUTSIDE THE DEVELOPMENT ENVELOPE—THE EXISTING
23 COUNTY AND STATE ROADS IN ALL DIRECTIONS FROM
24 EACH POINT OF ENTRANCE OF THE SITE TO THE FIRST
25 INTERSECTION OF A MAJOR COLLECTOR OR HIGHER
26 FUNCTIONAL CLASSIFICATION ROAD AS DEFINED BY THE
27 HARFORD COUNTY TRANSPORTATION PLAN;

1 (i) ARE CAPABLE OF ACCOMMODATING A PROJECTED
2 LEVEL OF SERVICE "C" OR HIGHER AT THE
3 INTERSECTIONS AS DEFINED BY THE HIGHWAY
4 CAPACITY MANUAL, SPECIAL REPORT 209, PUBLISHED
5 BY THE TRANSPORTATION RESEARCH BOARD.

6 4. CAPITAL PROJECTS WITH 100% OF THE CONSTRUCTION COSTS
7 ALLOCATED IN THE COUNTY'S CURRENT YEAR ADOPTED
8 CAPITAL IMPROVEMENT PROGRAM OR APPROVED FOR
9 CONSTRUCTION IN THE CURRENT YEAR STATE CONSOLIDATED
10 TRANSPORTATION PROGRAM MAY BE UTILIZED IN THE
11 TRAFFIC ANALYSIS. NECESSARY IMPROVEMENTS IDENTIFIED
12 IN THE TIA TO MEET THE LOS STANDARDS IN (C)3. MUST BE
13 PROVIDED BY THE SUBDIVIDER:

14 (A) IF THE TIA DETERMINES THAT THE EXISTING LOS IS "E" OR
15 LOWER AT AN INTERSECTION INSIDE THE DEVELOPMENT
16 ENVELOPE, THE SUBDIVIDER NEEDS ONLY TO MITIGATE
17 THE PORTION OF TRIPS GENERATED FROM THE
18 SUBDIVISION SITE; OR

19 (B) IF THE TIA DETERMINES THAT THE EXISTING LOS IS "D"
20 OR LOWER AT AN INTERSECTION OUTSIDE THE
21 DEVELOPMENT ENVELOPE, THE SUBDIVIDER NEEDS ONLY
22 TO MITIGATE THE PORTION OF TRIPS GENERATED FROM
23 THE SUBDIVISION SITE; AND

24 (D) IF THE TIA DETERMINES A SUBDIVIDER IS SUBJECT TO
25 MITIGATE ITS PORTION OF TRIPS GENERATED FROM THE
26 SITE, THEN THE SUBDIVIDER SHALL CONSTRUCT THE
27 IMPROVEMENTS AS STIPULATED BY THE DEPARTMENT OF

1 PUBLIC WORKS. IN THE EVENT THAT THE DEPARTMENT
2 OF PUBLIC WORKS DETERMINES THAT THE SUBDIVIDER IS
3 UNABLE TO PROVIDE THE IMPROVEMENTS BECAUSE OF
4 THE INABILITY TO ACQUIRE THE NECESSARY RIGHTS-OF-
5 WAY, THE PHYSICAL CONSTRAINTS OF THE PROPERTY, OR
6 STATE OR FEDERAL REGULATIONS, ALL OF WHICH ARE
7 BEYOND THE CONTROL OF THE SUBDIVIDER, THEN THE
8 SUBDIVIDER SHALL DEPOSIT INTO AN ESCROW ACCOUNT
9 WITH THE COUNTY 125% OF THE THE FUNDS NECESSARY
10 TO COVER THE COSTS OF THE IMPROVEMENTS AS
11 DETERMINED BY THE COUNTY. SAID FUNDS SHALL BE
12 DEPOSITED PRIOR TO ISSUANCE OF A BUILDING PERMIT.
13 THE COUNTY SHALL CONTINUE TO HOLD THE MONEY IN
14 ESCROW UNTIL SUCH TIME AS THE IMPROVEMENTS ARE
15 ABLE TO BE CONSTRUCTED. IN NO EVENT, HOWEVER,
16 SHALL THE MONEY BE RETAINED BY THE COUNTY FOR
17 LONGER THAN 10 YEARS FROM DATE OF DEPOSIT.

- 18 5. CONDITIONAL REVIEW — IF PARAGRAPHS 3.(A)(i), OR (B) (i), OF
19 THIS SUBSECTION PREVENTS APPROVAL OR THE EXTENSION OF
20 A PREVIOUS APPROVAL OF A PRELIMINARY SUBDIVISION PLAN
21 OR SITE PLAN, THE DEPARTMENT OF PLANNING AND ZONING
22 MAY PROCEED WITH CONDITIONAL REVIEW OF THE PLAN AND
23 PLACE IT ON A WAITING LIST ARRANGED BY DATE OF
24 COMPLETION OF THE REVIEW AND, FOR PREVIOUSLY-
25 APPROVED PLANS, BY DATE OF THE REQUEST FOR EXTENSION.
26 RECORD PLATS, GRADING PERMITS AND PUBLIC WORKS
27 AGREEMENTS FOR UTILITIES OR ROADS SHALL NOT BE

EXECUTED BY THE COUNTY UNTIL THE PLAN FOR THE PROJECT IS REMOVED FROM THE WAITING LIST AND PRELIMINARY APPROVAL OR EXTENSION IS GRANTED. REMOVAL FROM THE WAITING LIST SHALL OCCUR ONLY WHEN THE CONDITION THAT PREVENTED APPROVAL UNDER PARAGRAPHS 3.(A)(i), OR (B)(i), OF THIS SUBSECTION NO LONGER EXISTS.

6. GRANDFATHERING — UNLESS AN EXTENSION OF THE APPROVAL OF THE PLAN IS GRANTED IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS, DEVELOPMENT CONDUCTED IN ACCORDANCE WITH A PRELIMINARY PLAN APPROVED BEFORE THE EFFECTIVE DATE OF COUNCIL BILL 94 - _____ IS EXEMPT FROM THE PROVISIONS OF THIS SUBSECTION CONCERNING THE ADEQUACY OF THE ROADWAYS. IF AN EXTENSION OF THE APPROVAL OF THE PLAN IS GRANTED, THE DEVELOPMENT IS SUBJECT TO THE PROVISIONS OF THIS SUBSECTION CONCERNING THE ADEQUACY OF THE ROADWAY SYSTEM.

- C. Appeal -- Notwithstanding anything to the contrary contained in this chapter or in the Harford County Subdivision Rules and Regulations, as amended, it is hereby determined that nothing contained in this section shall be subject to a variance, special exception, or an appeal to the hearing examiner or Board of Appeals. An aggrieved party may appeal to the Director of Administration in accordance with established procedures.
- D. The provisions of this section pertaining to adequate water and sewer facilities shall apply to the Harford County sanitary district and all sanitary subdistricts.
- E. Compliance with the Harford County Department of Public Works Water and Sewer Rules and Regulations addressing adequate capacity is required prior to execution of any public

1 works agreement and/or issuance of any building permit.

2 F. A developer shall not avoid the intent of this section by submitting piecemeal applications
3 for preliminary or site plan approvals. This section applies when a parcel of land, as
4 described in the land records of Harford County on the effective date of this Council Bill
5 93-23 is developed for non-residential use or a cumulative total of six residential dwelling
6 units/lots or more is created from the parcel. However, a developer may seek approval of
7 only a portion of the subdivision or development, provided that the impact of all previously-
8 approved preliminary or site plans from that development shall be considered during the
9 adequate public facilities review of each subsequent portion of the development.

10 Section 2. And Be It Further Enacted that this Act shall take effect sixty (60) calendar days from
11 the date it becomes law.

EFFECTIVE:

*The Secretary of the Council does hereby
certify that fifteen (15) copies of this Bill
are immediately available for distribution to
the public and the press.*

James D. Vannoy

Acting Secretary